

**STATE OF WEST VIRGINIA  
WEST VIRGINIA SECURITIES DIVISION  
BEFORE THE SECURITIES COMMISSIONER  
CHARLESTON, WEST VIRGINIA 25305**

**IN THE MATTER OF:**

**CASE NO. 98-1230**

**THE WEST VIRGINIA UNIFORM SECURITIES ACT,  
CHAPTER 32, ARTICLE 3, SECTION 304a**

**ORDER VACATING  
PROCEDURES FOR  
IMPLEMENTATION  
OF BLUE CHIP  
EXEMPTION  
(CASE NO.95-1109)  
AND  
PROMULGATING  
PROCEDURES FOR  
IMPLEMENTATION OF  
NOTICE FILING BY  
FEDERAL COVERED  
SECURITIES**

**ORDER**

Pursuant to the authority granted by Chapter 32-1412 of the West Virginia Code, 1931, as amended and reenacted in 1997, the West Virginia Uniform Securities Act (hereinafter referred to as the "Act"), the Commissioner of Securities (hereinafter referred to as the "Commissioner"), has reviewed the enactment of House Bill 2842 (the "Bill") which has passed the West Virginia Legislative Session and became effective on July 11, 1997 as listed in Chapter 223 of the Acts of 1997.

Finds as follows:

**FINDINGS OF FACT**

1. The Act provides that federal covered securities may be offered for sale or sold to residents of West Virginia upon the Commissioner's receipt of notice filing by the

issuer as prescribed by the Commissioner.

2. The Commissioner, by rule or order, may waive any or all of the provisions of this section.
3. This Order is necessary, appropriate, and in the public interest, for the protection of investors and to achieve maximum uniformity as prescribed under the National Securities Markets Improvement Act of 1996, 15 U.S.C. 78a (1996).

#### **CONCLUSIONS OF LAW**

4. The Act provides that the Commissioner may from time to time make orders as necessary to carry out its provisions.
5. This Order is consistent with the purposes intended by the policies and provisions of the Act.

#### **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

- A. Securities for which a registration statement has been filed with the Securities and Exchange Commission under the Securities Act of 1933 with respect to a federal covered security under section 18(b)(2) of the Securities Act of 1933 may be offered for sale or sold to residents of this state upon the Commissioner's receipt of:
  1. A new form hereby adopted and entitled Form NF (Uniform Investment Company Notice Filing) which has been executed by the Issuer.
  2. A Consent to Service of Process (Form U-2) executed by the issuer.
  3. The statutory fee in the amount of one twentieth ( $1/20$ ) of one percent (1%) of the maximum aggregate offering price at which the noticed securities are to be offered in this State, but the fee shall in no case be less than fifty dollars (\$50.00) or more than fifteen hundred dollars (\$1,500.00). When a notice filing statement is withdrawn before the effective date or a pre-effective stop order is entered under section 306 of this article, the Commissioner shall retain all of the fee.

- B. Every notice filing shall specify any adverse order, judgment or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the Securities and Exchange Commission.
- C. Additional information or documents which the Commissioner may request must be received within fifteen (15) business days after such request.
- D. Every person changing the name or address of a notice filing shall pay a fifty dollar (\$50.00) fee for the change.
- E. Every person amending Form NF without increasing the dollar amount shall pay a fifty dollar (\$50.00) fee for each amended notice filing.
- F. A notice filing may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. A notice filing in West Virginia is at the class level.
- G. There must be a registration of a broker-dealer or agent of issuer for each class, series or portfolio of investment company shares.

1. An Agent of Issuer is required to file the following:

(a) Form U-4

(b) Proof of exams, (Series 63 and one (1) other exam, or just a Series 66). No waiver will be considered, in any case, except upon written application to the Commissioner.

(c) The statutory fee in the amount of two hundred fifty dollars (\$250.00) which must be renewed every December 31st.

(d) Dual registration is prohibited. No person shall be concurrently registered as an agent of more than one (1) issuer.

- H. A notice filing is effective until all shares are sold. There is no annual renewal.
- I. The Securities Division reserves the right to ask for a sales

report at any time in order to confirm sales.

- J. In any case where securities sold in this State are in excess of the aggregate amount, the Commissioner may require payment of an oversale assessment which shall be three times an amount which equals the difference between the filing fee that would have been payable based upon the total amount of securities sold in this State and the total filing fees previously paid to the Commissioner with respect to such notice filing, but in no case shall the oversale assessment be less than three hundred fifty dollars (\$350.00) or be more than fifteen hundred dollars (\$1,500.00), West Virginia Code 32-3-305(d).
- K. Issuers filing by notice filing shall file a Notice of Withdrawal (Form NF) within sixty (60) days after termination of sales or when the aggregate amount of securities is sold out. There is no fee for filing a withdrawal. When a notice filing is withdrawn before the effective date, the Commissioner shall retain all of the fee.
- L. This Order shall remain in effect until modified or vacated by the Commissioner.

ENTERED THIS 2<sup>ND</sup> DAY OF FEBRUARY 1997.

Glen B. Gainer III  
Commissioner of Securities

By: Barbara Harmon-Schamberger  
Deputy Commissioner of Securities